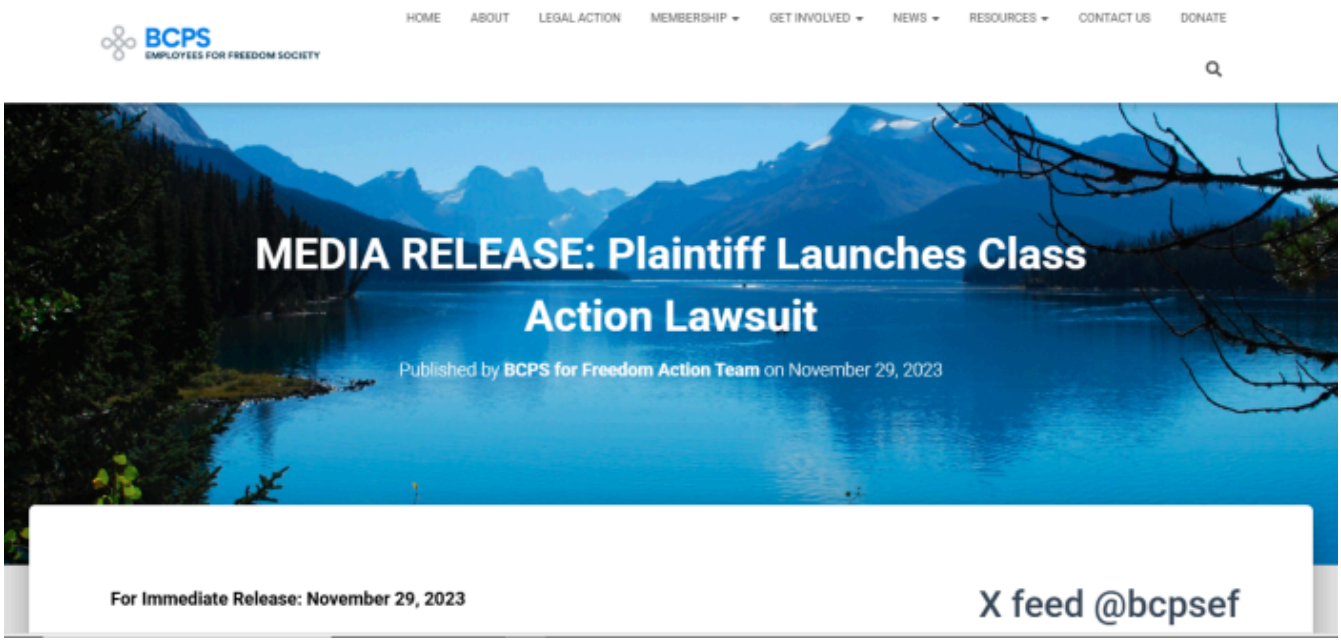
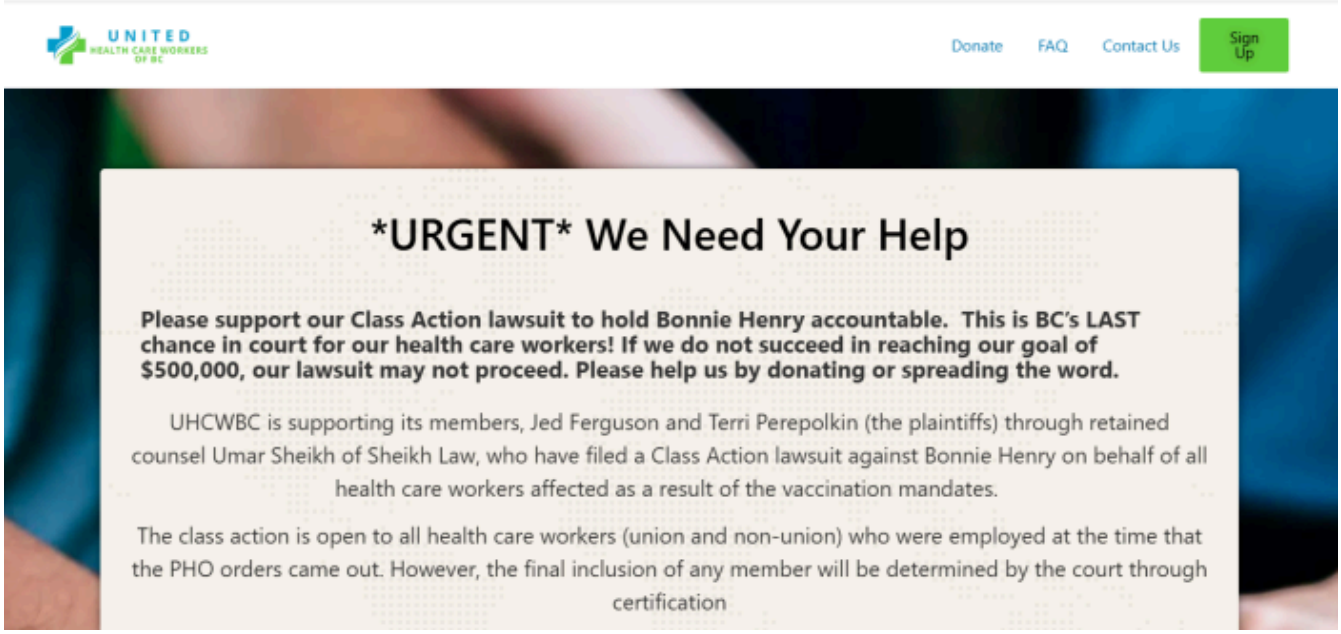
CANUCK LAW
Reporting That You're Not Getting Elsewhere (Do Your Own Research To Verify)

FEBRUARY 22, 2025 BY RONNIE

BCPSEF And UHCWBC Certification Hearings To Take Place In April Over s.2(d) Violations


BCPS
EMPLOYEES FOR FREEDOM SOCIETY
HOME ABOUT LEGAL ACTION MEMBERSHIP GET INVOLVED NEWS RESOURCES CONTACT US DONATE
MEDIA RELEASE: Plaintiff Launches Class Action Lawsuit
Published by BCPS for Freedom Action Team on November 29, 2023
For Immediate Release: November 29, 2023
X feed @bcpsef


UNITED
HEALTH CARE WORKERS OF BC
Donate
FAQ
Contact Us
Sign Up
URGENT We Need Your Help
Please support our Class Action lawsuit to hold Bonnie Henry accountable. This is BC's LAST chance in court for our health care workers! If we do not succeed in reaching our goal of $500,000, our lawsuit may not proceed. Please help us by donating or spreading the word.
UHCWBC is supporting its members, Jed Ferguson and Terri Perepolkin (the plaintiffs) through retained counsel Umar Sheikh of Sheikh Law, who have filed a Class Action lawsuit against Bonnie Henry on behalf of all health care workers affected as a result of the vaccination mandates.
The class action is open to all health care workers (union and non-union) who were employed at the time that the PHO orders came out. However, the final inclusion of any member will be determined by the court through certification

At the end of April, 2 groups are expected to begin their certification hearings at the British Columbia Supreme Court. These are: BCPS Employees for Freedom Society, and UHCWBC, the United Health Care Workers of BC. These are Proposed Class Action lawsuits filed in October 2023 challenging the injection mandates.

The idea behind Class Actions is simple: it can reduce a significant amount of time and expense to "bundle" related litigants into a single challenge.

The lawyer, Umar Sheikh, is trying to convince the Court that their clients' Section 2(d) Charter Rights were infringed. This is — of course — freedom of association — and it's become their signature tort. He's had some success so far.

It's worth mentioning that there's strong parallels between these suits and the Payne and Hill cases. They were filed by the same lawyers, and make essentially the same arguments. Both of those survived an initial challenge, although Payne is currently under Appeal. All of them are Proposed Class Actions.

CASE NAMES	PAYNE/BCPSEF	HILL/UHCWBC
Government Workers?	Yes	No
Filed Federally?	Payne	Hill
Filed in B.C.?	BCPSEF	UHCWBC

Wrongful Termination by Gov't?	Yes	No
Inducement to Breach Contract?	No	Yes
Breach s.2(d) Charter Rights?	Yes	Yes
Malfeasance of Public Office?	Yes	Yes

Collective bargaining agreements are typically fatal, due to the issue of whether or not the Court has jurisdiction. Usually, Arbitration is called for. But that doesn't apply when the party being sued *isn't* the employer. In the Hill and UHCWBC cases, the respective Governments are accusing of meddling with *other* people's employment.

This removes the potentially strongest initial challenge.

BCPS Employees for Freedom Society, Wrongful Termination

Hearing Date: 03Oct2024
Hearing Time: 9:00 AM
Hearing Location: Victoria Law Courts
List Type for the Hearing: Supreme Court Civil List

#	Document Description	Reason	Result	Canc.
9	Requisition - General (Application)	Case Management Conference	The end or conclusion of planned appearances	

Terms of Order

Consent Order
1. SEE ELECTRONIC IMAGE FOR TERMS OF ORDER

Hearing Date: 28May2024
Hearing Time: 12:00 PM
Hearing Location: Victoria Law Courts
List Type for the Hearing: Supreme Court Civil List

#	Document Description	Reason	Result	Canc.
5	Notice of Case Planning Conference	Case Planning Conference	Adjourned Generally	

> 54. The Plaintiff's plead that the Order constitutes an improper and unjustified imposition by the Defendant of a ***new term and condition of employment absent collective bargaining memoranda of agreement, consideration, or consent to their existing and freely negotiated employment agreements and as such violates their protected right*** under s. 2d of the Charter.

It's been a longstanding defence raised by various Governments in wrongful termination cases: there's a grievance option available, therefore, the Court has no jurisdiction. That said, the argument here is that any grievance process was *circumvented* by unilaterally imposing changes of employment agreements. If there's no opportunity for meaningful consultation, how can the internal processes be used?

Up until Payne, various Governments had been entirely successful arguing that there was no way around those agreements. But the logic applied here seems so basic.

Both cases here also argue that the Plaintiffs' freedom of association rights were violated, and it applies whether or not the Government is the employer.

United Health Care Workers, Inducement To Breach Contract

> 58. The Plaintiffs and Class Members allege that the Defendants ***intended to and caused and/or induced the Employers to breach contractual employment agreements by their actions in relation to: the disclosure of private medical information; imposition of a leave without pay; and/or unlawful termination by ordering the Employers to enforce the Orders absent justification***. The breaches of contractual employment agreements are therefore a ***direct result of the unlawful inducement of the breach*** as

> herein before particularized and as a result of unlawful interference by the Defendants in the contractual relationship between the Plaintiffs, Class Members and their Employers.

This differs from the above case since the health care workers aren't directly for the Government. Instead, they had their employment terminated by *their employers* such as hospitals, because of the injection mandates that were handed down. This is a subtle, but important distinction.

Certification Hearings To Determine Viability Of Class Action(s)

A common misconception is that these hearings are to determine the merits of the Plaintiffs' respective cases. That's not really accurate.

Instead, the purpose is to determine whether or not there's an overall interest in proceeding with such a case. Essentially, the lawyers have to "sell" the idea that they have the ability and plan to see it through. It's more about the nuts and bolts of such an undertaking, rather than trying the matter. The ability to finance and sustain a prolonged lawsuit will also be an issue.

The Representative Plaintiffs (a.k.a. Token Plaintiffs) are taking a significant risk as well. Should a Claim not be certified, they can be held personally responsible for Court costs. Those can be expensive.

Should either case be certified, it would pretty much close off opportunities to bring related claims for similar classes of people. This is partly why the Court needs to ensure these ones are serious.

Applications to Strike have also been filed in both cases, which is not a surprise. Those presumably will be heard at the same time.

BCPSEF and UHCWBC have both brought forward their Notices, and more documents are expected to be filed.

Hopefully, it goes more efficiently than the CSASPP hearings. Decisions on Certification, and an Application to Strike have been under reserve for nearly 2 years now.

BCPS EMPLOYEES FOR FREEDOM COURT DOCUMENTS:

(1) BCPS Notice Of Civil Claim October 2023

(2) BCPS Amended Notice Of Civil Claim April 2024

(3) BCPS Response To Civil Claim May 2024

(4) BCPS Requisition Case Management August 2024

(5) BCPS Notice Of Application Certification October 2024

(6) BCPS Notice Of Application To Strike October 2024

(7) BCPS Response To Application To Strike November 2024

(8) BCPS Consent Order Scheduling Of Materials January 2025

UHCWBC COURT DOCUMENTS:

(1) UHCWBC Notice Of Civil Claim October 2023

(2) UHCWBC Amended Notice Of Civil Claim April 2024

(3) UHCWBC Response To Notice Of Civil Claim May 2024

(4) UHCWBC Amended Response To Notice Of Civil Claim May 2024

(5) UHCWBC Requisition For Case Management Scheduling August 2024

(6) UHCWBC Notice Of Application For Certification October 2024

(7) UHCWBC Response To Application For Certification October 2024

(8) UHCWBC Notice Of Application To Strike Claim October 2024

(9) UHCWBC Consent Order Scheduling October 2024

(10) UHCWBC Response To Application To Strike November 2024

GENERAL LINKS:

(1) https://bcpsforfreedom.com/

(2) https://bcpsforfreedom.com/media-release-plaintiff-launches-class-action-lawsuit/

(3) https://x.com/bcpsef

(4) https://unitedtogether.ca/

(5) https://unitedtogether.ca/faq-classaction/

(6) https://x.com/UHCWBC

CANADA, EMPLOYMENT, HUMAN RIGHTS, PROCEDURAL, S.2(D), VACCINES

One Reply to “BCPSEF And UHCWBC Certification Hearings To Take Place In April Over s.2(d) Violations”

Moose

FEBRUARY 23, 2025 AT 3:46 AM

Their arguments are very interesting! Could very likely be used by individual businesses as well: the Govt mandates terminated their business because the hospitals were their employer (e.g long term care facilities)….